

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

In re: WC SOUTH CONGRESS SQUARE, LLC, Debtor.	§ § § § §	Case No. 20-11107-hcm Chapter 7
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TRUSTEE’S WITNESS AND EXHIBIT LIST FOR MARCH 7, 2023 HEARING

TO THE HONORABLE H. CHRISTOPHER MOTT, U.S. BANKRUPTCY JUDGE AND TO ALL PARTIES:

Randolph N. Osherow, not individually but in his capacity as the duly appointed chapter 7 trustee herein (in such capacity, the “Trustee”), for and on behalf of WC South Congress Square, LLC, hereby submits this Witness and Exhibit List in connection with the hearing to be held on **March 7, 2022, at 10:00 a.m.** (prevailing Central Time) (the “Hearing”) to consider *Trustee’s Motion for Authority to Pay (Partial) Refund of Earnest Money Deposit to NIA ATX LLC* [Docket No. 507] (the “Motion”) and any other matters taken up by the Court at the Hearing.

WITNESSES

The Trustee reserves all rights to call any or all of the following as witnesses at the Hearing, including but not limited to by affidavit, declaration, or proffer.

1. Randolph N. Osherow, in his capacity as the Trustee;
2. Any witness called or designated by any other party; and
3. Any rebuttal witnesses, as appropriate.

EXHIBITS

The Trustee reserves all rights to introduce and/or request judicial notice of any or all of the following Exhibits as evidence at the Hearing, each as may be amended, and expressly including any filed responses thereto, and any exhibits, schedules, addenda, and any and all other

attachments or amendments thereto and thereof. The Trustee reserves the right to amend or supplement this List as may be appropriate.

No.	Description	MARKED	OFFERED	OBJECT	ADMIT
A.	Order (I) Authorizing Sale of Substantially All Assets of the Estate Comprised of Real Property Located at 500 South Congress Avenue, Austin, Texas 78704, and Related Interests, Free and Clear of All Liens, Claims, and Encumbrances; (II) for Approval of Sale, Notice, and Executory Contract Procedures; and (III) to Set a Final Hearing to Conduct Auction and to Approve Sale and Good Faith Designation to Prevailing Purchaser [Docket No. 262] (“ <u>Sale Procedures Order</u> ”)				
B.	Order Granting Trustee’s Motion for Authority to Sell Substantially All Assets of the Estate Comprised of Real Property Primarily Located at 500 South Congress Avenue, Austin, Texas 78704, and Related Interests, Including Executory Contracts, Free and Clear of All Liens, Claims, and Encumbrances, and Providing Relief Pursuant to 11 U.S.C. § 363(b), (f), and (m) [Docket No. 315] (“ <u>Prior Final Sale Order</u> ”)				
C.	Trustee’s Notice of Non Closing of Sale and of Request to Back Up Bidder to Close Back Up Bid for Real Property Located at 500 South Congress Avenue, Austin, Texas 78704, and Related Interests, Free and Clear of All Liens, Claims, and Encumbrances [Docket No. 351] (“ <u>Notice to Back Up Bidder</u> ”)				
D.	<i>In re WC 3rd and Trinity, LP</i> , Case No. 21-10252, Second Motion for Authority (I) to Sell Property of the Estate Free and Clear of All Liens, Claims, Encumbrances and Interests Pursuant to 11 U.S.C. §§ 363(b) and 363(f) and (II) to Authorize the Payment of Closing Fees and Costs Including Payment of the Realtor’s Commission Pursuant to 11 U.S.C. § 328 [Docket No. 279]				
E.	Kennedy Lewis Investment Management, LLC and KL Horns Up LLC’s Expedited Motion for Relief From the Automatic Stay [Docket No. 355]				
F.	Trustee’s Reply to the Response of NIA ATX, LLC to Trustee’s Motion for Authority to Pay (Partial) Refund Of Earnest Money Deposit [Docket No. 554]				

No.	Description	MARKED	OFFERED	OBJECT	ADMIT
G.	Declaration of Randolph Osherow, Trustee in Support of Trustee's Motion for Authority to Pay (Partial) Refund of Earnest Money Deposit to NIA ATX LLC [Docket No. 580]				
H.	E-mail from T. White (July 18, 2022) [Docket No. 580-1]				
I.	(Proposed) Contract for Sale [Docket No. 580-2]				
J.	E-mails between T. White and J. Ong (July 25–27, 2022) [Docket No. 580-3]				
K.	E-mails between T. White and J. Ong (July 27–29, 2022) [Docket No. 580-4]				
L.	E-mails between T. White and J. Ong (Aug. 1, 2022–Sept. 1, 2022) [Docket No. 580-5]				
M.	Declaration of D. Dennett proffered and admitted by NIA ATX, LLC for September 15, 2022 Hearing (Exhibit “11”)				
N.	Transcript of Hearing to consider Kennedy Lewis Investment Management, LLC and KL Horns Up LLC's Stay Relief Motion (September 12, 2022) [Docket No. 373]				
O.	Transcript of Hearing to consider Kennedy Lewis Investment Management, LLC and KL Horns Up LLC's Stay Relief Motion (September 15, 2022) [Docket No. 396]				
P.	Transcript of Hearing to consider NIA ATX LLC's Motion for Stay Pending Appeal (September 26, 2022) [Docket No. 430]				
Q.	District Court Order [Docket No. 436]				
R.	Any and all Motions, Notices, pleadings, and other docket items filed of record in the Bankruptcy Case				
S.	Any and all exhibits designated by any other party				
T.	Any and all other exhibits as may be appropriate for rebuttal or impeachment purposes				

Dated: March 3, 2023

Respectfully submitted,

By: /s/ Jay H. Ong
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**Counsel for Randolph N. Osherow, as
Chapter 7 Trustee**

Certificate of Service

I hereby certify that on this 3rd day of March 2023, I personally caused to be served a true and correct copy of the above and foregoing document by electronically filing it with the Court using the Court's CM/ECF system, which sent notification to the parties receiving same through such system, and served all listed exhibits on the following parties, via e-mail:

Seth E. Meisel on behalf of Interested Party NIA ATX LLC
smeisel@dbcllp.com

/s/ Jay H. Ong
Jay H. Ong